

Notice of Allowability

Application No.

09/977,930

Examiner

Ann Y. Lam

Applicant(s)

POIRIER ET AL.

Art Unit

1641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/20/06.
2. ☒ The allowed claim(s) is/are 7,9,10 and 12-20.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20061221.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


ANN YEN LAM
PATENT EXAMINER

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robert Fish on December 19, 2006 and January 3, 2006.

The application has been amended as follows:

In claim 7, line 1, and claim 15, line 1, delete "continuously", respectively.

In claim 15, insert after "port" in line 7, --and one of the two can be filled with a first fluid while the other of the two is being depleted of a second fluid--.

Also, in claim 15, in line 8, after "introducing", insert --a continuous flow of--.

Also, in claim 15, in line 8, replace "and" with --while at the same time--.

In claim 16, insert a period after "sheet" in line 3.

On page 1 of the specification, insert after "2001" in line 3, --now U.S. Patent No. 6,821,790--.

In the Brief Description of the Drawing (which was added in an amendment filed July 5, 2006), replace "Figure 1" with --The drawing--.

The following is an examiner's statement of reasons for allowance. As to independent claim 7, the prior art does not teach a method comprising providing a container with a plurality of compartments and introducing a continuous flow of whole

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blood into a port while at the same time emitting a continuous flow of processed whole blood that is at least partially depleted of a target antigen, using a magnetic force and an automatic mechanical force, and a plurality of magnetic beads in at least one of the compartments, wherein the entire container is flexible. (The container in the Southgate et al. reference has elements that do not make the entire container flexible.) As to independent claim 15, the prior art does not teach a method comprising providing a container having at least two compartments in fluid communication with a fluid discharge port, wherein one of the two compartments can be filled with a first fluid while the other of the two is being depleted of a second fluid, introducing a continuous flow of whole blood into a fluid receiving port while emitting processed whole blood from a fluid discharge port, wherein target antigen is separated from the whole blood using a magnetic force and an automatic mechanical force and one of the compartments of the container has a plurality of magnetic beads. (The container in the Southgate et al. reference does not have two compartments in fluid communication with a discharge port wherein one of the two compartments can be filled with a first fluid while the other of the two is being depleted of a second fluid, such that there is a continuous flow of whole blood into a fluid receiving port while processed whole blood is emitted from a fluid discharge port. It is noted that two compartments allowing for a continuous discharge of fluid is acknowledged by Applicants as being critical or essential to the practice of the invention.)

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is 571-272-0822. The examiner can normally be reached on Mon.-Fri. 10-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on 571-272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 4/3/02
ANN YEN LAM
PATENT EXAMINER